

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

DESMOND CRUMSEY,

Petitioner,

v.

Case No. 07-13608
Honorable Lawrence P. Zatkoff
United States District Court

JOHN OCWIEJA,

Respondent,

**OPINION AND ORDER GRANTING PETITIONER'S
MOTION TO EXPAND THE RECORD**

On August 28, 2007, Petitioner Desmond Crumsey, filed a *pro per* application for writ of habeas corpus with this Court, pursuant to 28 U.S.C. § 2254. Before the Court now is Petitioner's motion to expand the record. Respondent filed an answer to the habeas petition on March 6, 2008. For the reasons stated below, the Court will grant Petitioner's motion to expand the record.

I.

Rule 7 (a) of the rules governing § 2254 cases, 28 U.S.C. foll. § 2254, indicates that if a habeas petition is not summarily dismissed, the district court judge "may direct the record be expanded by the parties by the inclusion of additional materials relevant to the determination of the merits of the petition." A federal district court judge may employ a variety of measures to avoid the necessity of an evidentiary hearing in a habeas case, including the direction to expand the record to include evidentiary materials that may resolve the factual dispute without the need for an evidentiary hearing. *Blackledge v. Allison*, 431 U.S. 63, 81-82 (1977).

In the present case, Petitioner requests the Court to expand the record to include the preliminary complaint from the 36th District Detroit Police Department, which reflects that Petitioner was arrested during a routine traffic stop, thereby refuting Respondent's contention that he was arrested or obtained elsewhere. Because these materials may help resolve any factual disputes in this case, the Court will permit the court record to be expanded to include those materials.

ORDER

Based upon the foregoing, Petitioner's motion to expand the record is **GRANTED**. Petitioner is ordered to file the necessary document(s) with the Court within 30 days of the date of this Order.

s/Lawrence P. Zatkoff
LAWRENCE P. ZATKOFF
UNITED STATES DISTRICT JUDGE

Dated: May 1, 2008

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of this Order was served upon the attorneys of record by electronic or U.S. mail on May 1, 2008.

s/Marie E. Verlinde
Case Manager
(810) 984-3290